

WILLIAM VOSS,)
)
 Plaintiff,)
)
 vs.) Case No. 4:16 CV 1895 RWS
)
 DAVID VOBORA,)
)
 Defendant.)


On February 7, 2017, two months after plaintiff's complaint was filed, I dismissed the case with prejudice for failure to state a claim. Plaintiff did not appeal the dismissal. Defendant now seeks attorneys' fees in the amount of \$11,700 as a sanction for plaintiff allegedly bringing this action in bad faith and for an improper purpose. Defendant relies on the Court's inherent authority and 28 U.S.C. § 1927¹ to support an award of fees. Defendant points to statements made by plaintiff in a state court collection action as evidence that sanctions are warranted here. I did not consider that evidence in dismissing the case, noting that

“Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys’ fees reasonably incurred because of such conduct.”

the state court is in the best position to determine whether plaintiff's conduct in that ongoing case is worthy of sanctions. Having carefully reviewed the motion and plaintiff's opposition, I will exercise my inherent discretion to deny defendant's request for fees. I will also deny the request for fees under 28 U.S.C. § 1927 as I do not believe that defendant has demonstrated that he is entitled to relief under the statute given the procedural posture of the case.

Accordingly,

IT IS HEREBY ORDERED that defendant's motion for attorneys' fees [20] is denied.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", is written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 15th day of March, 2017.